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**AUG 22 2006**

**OFFICE OF PETITIONS**

ANNOP MAGNESS  
PO BOX 1997  
ROSEMEAD, CA 91770

In re Application of :  
Annop Magness :  
Application No.: 09/942,855 : ON PETITION  
Filed: August 29, 2001 :  
Attorney Docket No: :

This is in response to the petition under 37 CFR 1.137(b) filed July 29, 2005.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

The above-identified application became abandoned for failure to reply to the "Notice of Allowability" (the "Notice") mailed March 24, 2004, which set a statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on June 25, 2004. A Notice of Abandonment was mailed on August 18, 2004. It is noted that the instant petition is titled a petition under 37 CFR 1.137(a). However, it is believed that petitioner intended to file the petition under 37 CFR 1.137(b) because petitioner has filed previously unsuccessful petitions under 37 CFR 1.137(a) and makes references in the instant petition to waiver of the \$700.00 fee for the unintentional petition. The petition is, therefore, being treated under 37 CFR 1.137(b).

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) and (3) above.

Item (1) above has not been satisfied because of the failure to file a proper reply to the Notice of Allowability, which required corrected drawings to be filed. The renewed petition must be accompanied by a proper response to the Notice of Allowability before the petition will be considered grantable.

As to item (3), the petition fee of \$750.00 did not accompany the petition. Petitioner's request for waiver of the fee is noted, but cannot be granted as the petition fee is a statutory requirement that cannot be waived pursuant to 37 CFR 1.183. Accordingly, the \$750.00 petition fee must accompany the renewed petition in order to be considered grantable.

Further correspondence with respect to this matter should be addressed as follows:

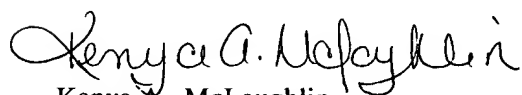
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By facsimile:

(571) 273-8300  
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.



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